

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

## **SENATE BILL 1126**

AN ACT

AMENDING SECTIONS 8-382, 8-412, 13-4401 AND 13-4433, ARIZONA REVISED STATUTES; RELATING TO VICTIMS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 8-382, Arizona Revised Statutes, is amended to  
3 read:

4           8-382. Definitions

5       In this article, unless the context otherwise requires:

6       1. "Accused" means a juvenile who is referred to juvenile court for  
7 committing a delinquent act.

8       2. "Appellate proceeding" means any contested matter before the state  
9 court of appeals, the state supreme court, a federal court of appeals or the  
10 United States supreme court.

11      3. "Arrest" means the actual custodial restraint or temporary custody  
12 of a person.

13      4. "Court" means the juvenile division of the superior court when  
14 exercising its jurisdiction over children in any proceeding relating to  
15 delinquency.

16      5. "Crime victim advocate" means a person who is employed or  
17 authorized by a public entity or a private entity that receives public  
18 funding primarily to provide counseling, treatment or other supportive  
19 assistance to crime victims.

20      6. "Custodial agency" means any law enforcement officer or agency, a  
21 sheriff, a county juvenile detention center, the department of juvenile  
22 corrections or a secure mental health facility that has custody of a person  
23 who is arrested or in custody for a delinquent or incorrigible offense.

24      7. "Delinquency proceeding" means any hearing, argument or other  
25 matter that is scheduled or held by a juvenile court judge, commissioner or  
26 hearing officer and that relates to an alleged or adjudicated delinquent  
27 offense.

28      8. "Delinquent" means a child who is adjudicated to have committed a  
29 delinquent act.

30      9. "Delinquent act" means an act to which this article applies  
31 pursuant to section 8-381.

32      10. "Detention hearing" means the accused's initial appearance before  
33 the court to determine release before adjudication.

34      11. "Final disposition" means the ultimate termination of the  
35 delinquency proceeding by a court, including dismissal, acquittal, transfer  
36 to adult court or imposition of a disposition after an adjudication for a  
37 delinquent offense.

38      12. "Immediate family" means a victim's spouse, parent, child, sibling,  
39 grandparent or lawful guardian.

40      13. "Juvenile defendant" means a juvenile against whom a petition is  
41 filed seeking to have the juvenile adjudicated delinquent.

42      14. "Lawful representative" means a person who is designated by the  
43 victim or appointed by the court and who will act in the best interests of  
44 the victim.

1       15. "Postadjudication release" means release on probation, intensive  
2 probation, work furlough, community supervision or home detention, release on  
3 conditional liberty pursuant to section 41-2818 by the department of juvenile  
4 corrections or any other permanent, conditional or temporary release from  
5 confinement, discharge or completion of commitment by the department of  
6 juvenile corrections, a sheriff, a municipal jail, a juvenile detention  
7 center, a residential treatment facility or a secure mental health facility.

8       16. "Postadjudication review hearing" means a hearing that is held in  
9 open court and that involves a request by the juvenile for review of a  
10 disposition.

11      17. "Postarrest release" means the discharge of the accused from  
12 confinement.

13      18. "Release" means no longer in the custody of the custodial agency  
14 and includes transfer from one custodial agency to another custodial agency.

15      19. "Rights" means any right granted to the victim by the laws of this  
16 state.

17      20. "Victim" means a person against whom the delinquent act was  
18 committed, or if the person is killed or incapacitated, the person's spouse,  
19 parent, child, grandparent or sibling, any other person related to the person  
20 by consanguinity or affinity to the second degree or any other lawful  
21 representative of the person, except if the PERSON OR THE PERSON'S spouse,  
22 parent, child, grandparent, sibling, other person related to the person by  
23 consanguinity or affinity to the second degree or other lawful representative  
24 is in custody for an offense or is the accused.

25      Sec. 2. Section 8-412, Arizona Revised Statutes, is amended to read:

26      8-412. Victim's right to refuse an interview

27      A. Unless the victim consents, the victim shall not be compelled to  
28 submit to an interview on any matter, including any alleged delinquent act  
29 witnessed by the victim and that occurred on the same occasion as the  
30 delinquent act against the victim, or filed in the same petition or  
31 consolidated for an adjudication hearing, that is conducted by the juvenile  
32 defendant, the attorney for the juvenile defendant or an agent of the  
33 juvenile defendant.

34      B. The juvenile defendant, the attorney for the juvenile defendant or  
35 an agent of the juvenile defendant shall only initiate contact with the  
36 victim through the prosecutor's office. The prosecutor's office shall inform  
37 the victim of the juvenile defendant's request for an interview within ten  
38 days after the request and shall advise the victim of the victim's right to  
39 refuse the interview.

40      C. The prosecutor shall not be required to forward any correspondence  
41 from the juvenile defendant, the juvenile defendant's attorney or an agent of  
42 the juvenile defendant to the victim or the victim's representative.

43      D. If the victim consents to an interview, the prosecutor's office  
44 shall inform the juvenile defendant, the attorney for the juvenile defendant  
45 or an agent of the juvenile defendant of the time and place the victim has

1 selected for the interview. If the victim wishes to impose other conditions  
2 on the interview, the prosecutor's office shall inform the juvenile  
3 defendant, the attorney for the juvenile defendant or an agent of the  
4 juvenile defendant of the conditions. The victim has the right to terminate  
5 the interview at any time or to refuse to answer any question during the  
6 interview. The prosecutor has standing at the request of the victim to  
7 protect the victim from harassment, intimidation or abuse and, pursuant to  
8 that standing, may seek any appropriate protective court order.

9 E. Unless otherwise directed by the victim, the prosecutor may attend  
10 all interviews. If a transcript or tape recording of the interview is made  
11 and on request of the prosecutor, the prosecutor shall receive a copy of the  
12 transcript or tape recording at the prosecutor's expense.

13 F. For the purposes of this section, a peace officer shall not be  
14 considered a victim if the act that would have made the officer a victim  
15 occurs while the peace officer is acting in the scope of the officer's  
16 official duties.

17 G. THIS SECTION APPLIES TO THE PARENT OR LEGAL GUARDIAN OF A MINOR  
18 CHILD WHO EXERCISES VICTIMS' RIGHTS ON BEHALF OF THE MINOR CHILD.

19 Sec. 3. Section 13-4401, Arizona Revised Statutes, is amended to read:  
20 **13-4401. Definitions**

21 In this chapter, unless the context otherwise requires:

22 1. "Accused" means a person who has been arrested for committing a  
23 criminal offense and who is held for an initial appearance or other  
24 proceeding before trial.

25 2. "Appellate proceeding" means any contested matter before the state  
26 court of appeals, the state supreme court, a federal court of appeals or the  
27 United States supreme court.

28 3. "Arrest" means the actual custodial restraint of a person or the  
29 person's submission to custody.

30 4. "Court" means all state, county and municipal courts in this state.

31 5. "Crime victim advocate" means a person who is employed or  
32 authorized by a public entity or a private entity that receives public  
33 funding primarily to provide counseling, treatment or other supportive  
34 assistance to crime victims.

35 6. "Criminal offense" means conduct that gives a peace officer or  
36 prosecutor probable cause to believe that one of the following has occurred:

37 (a) A felony.

38 (b) A misdemeanor involving physical injury, the threat of physical  
39 injury or a sexual offense.

40 7. "Criminal proceeding" means any hearing, argument or other matter  
41 that is scheduled by and held before a trial court but does not include any  
42 deposition, lineup, grand jury proceeding or other matter that is not held in  
43 the presence of the court.

44 8. "Custodial agency" means any law enforcement officer or agency, a  
45 sheriff or municipal jailer, the state department of corrections or a secure

1 mental health facility that has custody of a person who is arrested or in  
2 custody for a criminal offense.

3 9. "Defendant" means a person or entity that is formally charged by  
4 complaint, indictment or information of committing a criminal offense.

5 10. "Final disposition" means the ultimate termination of the criminal  
6 prosecution of a defendant by a trial court, including dismissal, acquittal  
7 or imposition of a sentence.

8 11. "Immediate family" means a victim's spouse, parent, child, sibling,  
9 grandparent or lawful guardian.

10 12. "Lawful representative" means a person who is designated by the  
11 victim or appointed by the court and who acts in the best interests of the  
12 victim.

13 13. "Post-arrest release" means the discharge of the accused from  
14 confinement on recognizance, bond or other condition.

15 14. "Post-conviction release" means parole, work furlough, community  
16 supervision, probation if the court waived community supervision pursuant to  
17 section 13-603, home arrest or any other permanent, conditional or temporary  
18 discharge from confinement in the custody of the state department of  
19 corrections or a sheriff or from confinement in a municipal jail or a secure  
20 mental health facility.

21 15. "Post-conviction relief proceeding" means a contested argument or  
22 evidentiary hearing that is held in open court and that involves a request  
23 for relief from a conviction or sentence.

24 16. "Prisoner" means a person who has been convicted of a criminal  
25 offense against a victim and who has been sentenced to the custody of the  
26 sheriff, the state department of corrections, a municipal jail or a secure  
27 mental health facility.

28 17. "Release" means no longer in the custody of a custodial agency and  
29 includes transfer from one custodial agency to another custodial agency.

30 18. "Rights" means any right that is granted to the victim by the laws  
31 of this state.

32 19. "Victim" means a person against whom the criminal offense has been  
33 committed, including a minor, or if the person is killed or incapacitated,  
34 the person's spouse, parent, child, grandparent or sibling, any other person  
35 related to the person by consanguinity or affinity to the second degree or  
36 any other lawful representative of the person, except if the **PERSON OR THE**  
37 **PERSON'S** spouse, parent, child, grandparent, sibling, other person related to  
38 the person by consanguinity or affinity to the second degree or other lawful  
39 representative is in custody for an offense or is the accused.

40 Sec. 4. Section 13-4433, Arizona Revised Statutes, is amended to read:

41 13-4433. **Victim's right to refuse an interview; applicability**

42 A. Unless the victim consents, the victim shall not be compelled to  
43 submit to an interview on any matter, including any charged criminal offense  
44 witnessed by the victim and that occurred on the same occasion as the offense  
45 against the victim, or filed in the same indictment or information or

1       consolidated for trial, that is conducted by the defendant, the defendant's  
2 attorney or an agent of the defendant.

3       B. The defendant, the defendant's attorney or an agent of the  
4 defendant shall only initiate contact with the victim through the  
5 prosecutor's office. The prosecutor's office shall promptly inform the  
6 victim of the defendant's request for an interview and shall advise the  
7 victim of the victim's right to refuse the interview.

8       C. The prosecutor shall not be required to forward any correspondence  
9 from the defendant, the defendant's attorney or an agent of the defendant to  
10 the victim or the victim's representative.

11      D. If the victim consents to an interview, the prosecutor's office  
12 shall inform the defendant, the defendant's attorney or an agent of the  
13 defendant of the time and place the victim has selected for the interview. If  
14 the victim wishes to impose other conditions on the interview, the  
15 prosecutor's office shall inform the defendant, the defendant's attorney or  
16 an agent of the defendant of the conditions. The victim has the right to  
17 terminate the interview at any time or to refuse to answer any question  
18 during the interview. The prosecutor has standing at the request of the  
19 victim to protect the victim from harassment, intimidation or abuse and,  
20 pursuant to that standing, may seek any appropriate protective court order.

21      E. Unless otherwise directed by the victim, the prosecutor may attend  
22 all interviews. If a transcript or tape recording of the interview is made  
23 and on request of the prosecutor, the prosecutor shall receive a copy of the  
24 transcript or tape recording at the prosecutor's expense.

25      F. If the defendant or the defendant's attorney comments at trial on  
26 the victim's refusal to be interviewed, the court shall instruct the jury  
27 that the victim has the right to refuse an interview under the Arizona  
28 Constitution.

29      G. For the purposes of this section, a peace officer shall not be  
30 considered a victim if the act that would have made the officer a victim  
31 occurs while the peace officer is acting in the scope of the officer's  
32 official duties.

33      H. THIS SECTION APPLIES TO THE PARENT OR LEGAL GUARDIAN OF A MINOR  
34 CHILD WHO EXERCISES VICTIMS' RIGHTS ON BEHALF OF THE MINOR CHILD.